

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 14, 2003

Agenda ID #2973

TO: PARTIES OF RECORD IN APPLICATION 03-08-014

This is the draft decision of Administrative Law Judge Bushey. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ Angela K. Minkin
Angela K. Minkin, Chief
Administrative Law Judge

ANG: avs

Decision **DRAFT DECISION OF ALJ BUSHEY** (Mailed 11/14/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Lennar Corporation, LNR Property Corporation, LNR NWHL Holdings, Inc., NWHL Investment LLC, NWHL GP LLC, NWHL Acquisition, L.P., the Newhall Land and Farming Co., and Valencia Water Company (U342-W) for authorization of Lennar Corporation, LNR Property Corporation, LNR NWHL Holdings, Inc., NWHL Investment LLC, NWHL GP LLC to acquire control over Valencia Water Company.

Application 03-08-014
(Filed August 18, 2003)

OPINION CONDITIONALLY APPROVING APPLICATION**Summary**

In this decision we conditionally approve the transfer of indirect control of Valencia Water Company (Valencia) from Newhall Land and Farming Company (Newhall) to Lennar Corporation (Lennar) and LNR Property Corporation (LNR).

Background

This application seeks Commission authorization to transfer ownership and control of Newhall to Lennar Corporation and LNR Property Corporation. Newhall owns all outstanding capital stock of Valencia. The other entities are corporate and transactional intermediaries. The post transaction corporate configuration is set out in Attachment A.

The Santa Clarita Organization for Planning the Environment (SCOPE), the Friends of the Santa Clarita River, and the Los Angeles Chapter of the Sierra

Club filed protests. These organizations requested hearings on: (1) the acquiring firms' technical and financial abilities, (2) local control of Valencia, (3) preferential service extensions for the affiliated land development companies, (4) spread of existing perchlorate pollution in groundwater due to increased pumping, and (5) disclosure of all merger documents and inter-company loan status.

The applicants submitted a response contending that the protests did not show a sufficient basis for hearings. The applicants pointed out that the proposed transaction would result in a change in ownership of Newhall, the owner of all capital stock in Valencia, but would have no effect on Valencia's management team, revenue requirement, rate base, capital structure, or the Commission's authority over any future Valencia expansion.

On October 3, 2003, the assigned Commissioner and Administrative Law Judge (ALJ) issued a joint ruling finding that an evidentiary hearing was not necessary because there were no disputed issues of material fact. The ruling set a briefing schedule to address disputed policy and legal issues.

On October 23, 2003, the ALJ issued a ruling modifying the schedule at the request of two protestants, and seeking comment on a draft set of conditions attached to the ruling. In their comments, the parties generally supported the draft conditions but the applicants sought several changes and the protestants requested additional more stringent conditions.

The Sierra Club and the Friends of the Santa Clarita River, jointly, and SCOPE filed opening briefs. The applicants filed opening and reply briefs.

Description of the Proposed Transaction

Valencia is a Commission-regulated Class A water company and is a wholly owned subsidiary of Newhall. Valencia provides service in the Santa Clarita Valley area of Los Angeles County.

Newhall is a California limited partnership with its principal place of business in Valencia, California. Newhall owns substantial agricultural property in Madera and Ventura counties, but its primary activity is real estate development. Newhall founded Valencia to provide water service in certain of its developments.

LNR is a Delaware corporation, with its headquarters in Miami Beach, Florida. The application states that LNR invests in and manages various types of property, including industrial, retail, office, apartments, hospitality, and land. Subsidiaries of LNR currently manage over 3.4 million square feet and 4,400 acres of commercial property in California. LNR's net earnings for 2002 were \$143,878,000.

Lennar is also a Delaware corporation, and its headquarters are in Miami, Florida. The application states that Lennar is one of the nation's leading builders of homes, having built about 6,500 new homes in California in 2002. Lennar has eleven home building divisions and four land divisions, and approximately 2,500 sales associates statewide. Lennar's net earnings for 2002 were \$545,129,000.

Both LNR and Lennar are publicly traded corporations on the New York Stock Exchange. Stuart Miller, Lennar's President and Chief Executive Officer, is also the Chairman of LNR's Board of Directors. Through family owned entities, Miller controls sufficient stock in both corporations to make all decisions presented to shareholders.

Lennar and LNR propose, by a series of transactions through a series of transactions through their jointly owned subsidiary, NWHL Investment, to each acquire 50% ownership and control of a partnership that holds the assets of Newhall. See Attachment A. Valencia is one of Newhall's assets. Newhall estimates that the total value of the proposed transaction is approximately \$1.15 billion.

Standard of Review for this Acquisition

Commission authorization pursuant to §§ 851 and 854¹ is necessary in order for the applicants to assume indirect control of Valencia. The Commission has previously determined that such approval will only be granted where the proposed transaction is in the public interest. The Commission may use the standards set out in § 854(b) and (c) to “inform” its public interest determination. (Decision (D.) 02-12-068, *mimeo.*, at 9.) Due to the nature of the proposed transaction, which is an indirect change of control at the holding company level where the holding company has little, if any, day-to-day involvement with the public utility, the primary focus of our evaluation will be the transaction's effects on ratepayers.

Proposed Conditions of Approval

As noted above, the assigned ALJ issued a ruling setting out proposed conditions of approval for the transaction. These conditions were based on sets of conditions included by the Commission when authorizing similar transactions.

The conditions require, among other things, that the transaction will have no effect on the Commission's authority over Valencia. Valencia is required to

continue to offer its customers high quality public utility water service, and to maintain its high level of community involvement.

Significant restrictions are imposed on all transactions between Valencia and the parent companies, Lennar and LNR. Financial transactions are particularly limited, and annual reports are required. Ratemaking requirements are also imposed, with all costs of the acquisition excluded from Valencia's rate base.

All protestants supported the proposed conditions. Valencia generally agreed with the conditions, but offered several minor changes and raised one substantive issue. The proposed conditions required that a Valencia affiliate, not Valencia, perform unregulated operations. Valencia objected, contending that, while Valencia does not currently offer any such services, it may wish to do so in the future and that, like other water utilities, it should be allowed to do so.

The conditions have been modified to allow Valencia to conduct unregulated operations but only if such operations will not adversely affect Valencia or its ratepayers. To the extent Valencia chooses to conduct unregulated activities, Valencia must accurately account for all employee and officer time, as well as the fully allocated cost of all Valencia property used in the unregulated activities. The conditions are Attachment B.

Issues Raised by Protestants

1. Technical Capability

Pursuant to the proposed transaction, Lennar and its affiliates will acquire Newhall, the company that owns all capital stock in Valencia. The applicants state that Valencia's entire management team will remain in place, as

¹ All citations are to the Public Utilities Code unless otherwise indicated.

well as most of Newhall's. The Commission recently conducted a general rate case for Valencia and found no issues of management incompetence or service quality. (*See* D.03-05-030.) Because this management team will remain in place after Newhall is acquired, there is no dispute that after the proposed transaction Valencia will possess the technical competence to own and operate a Commission-regulated water utility. Also in the rate case proceeding, Valencia showed that Newhall had no substantive role in Valencia's day-to-day operations, and only minimal management-level oversight. Newhall's management team will remain largely in place, and the application does not indicate that the parties intend to change this practice.

Condition 5 specifies that the transaction will have no effect on, among other things, Valencia's operations, maintenance, or any other matter affecting the public interest. Condition 9 also prohibits Valencia from changing operational control as a result of the proposed transaction. These conditions, and others, will ensure that Valencia retains the technical competence to operate a public utility water service.

2. Financial Resources

The record in Valencia's recent general rate case shows that Valencia is capable of raising sufficient capital to meet the needs of its customers. In addition, Lennar Corporation had net earnings of over \$500 million in 2002.

The applicants have represented that "this change of control at the parent company level will have no negative effects on the financial standing, costs of operation, or revenue requirements of Valencia." This representation underlies Conditions 3 (Valencia must be provided sufficient capital), 13 (no adverse changes in debt or liabilities), and 14 (Valencia shall not bear any of the costs of the acquisitions). These conditions provide sufficient assurance that

Valencia will have sufficient financial resources to continue to provide high quality public utility water service.

3. Service Extension Favoring Real Estate Development Affiliate

Protestants expressed concern that Valencia would be required by Newhall to make service area extensions favoring future Newhall or Lennar developments. The Commission considered similar allegations in the recent rate case and found insufficient evidence to support the allegations. The Commission, however, has and will retain complete authority over any and all Valencia service territory expansions. The protestants have participated in these proceedings in the past, and could raise any issues of favoritism in future proceedings. (*See e.g.*, D.01-11-048.)²

The Commission has previously adopted a set of affiliate transactions rules to govern the relationship between a Commission-regulated water utility and its corporate affiliates. These rules ensure that the utility and its ratepayers are not subsidizing the affiliated operations. (*See* D.02-12-068 (Appendix A to Settlement Agreement, which is Appendix B to the decision).) A similar set of rules, tailored to this acquisition, is included as Condition 18. Condition 17 directly prohibits any form of favoritism for affiliated real estate developers.

SCOPE briefed this issue, and contended that the Lennar and LNR “hierarchy” would be tempted to skew drought and water shortage decision making against Valencia’s customers and in favor of the real estate development affiliates. Such decisions, however, are subject to Commission oversight.

² The Commission addressed the perchlorate pollution issue in that decision, as well as California Environmental Quality Act issues, such as those raised by the Sierra Club and Friends of the Santa Clarita River.

Pursuant to § 451, Valencia must provide just and reasonable service as is necessary to promote the safety, health, comfort and convenience of its customers and the public. The Commission has ample enforcement power to ensure that Valencia adheres to this requirement, as well as Condition 17.

4. Out-of-State Ownership

The protestants also expressed concern about out-of-state ownership of Valencia leading to “financial or ethical decisions that are not in the best interests of the ratepayers or the community.” The Commission, however, retains complete authority over Valencia’s public utility operations, including its rates, as well as substantial power to “do all things . . . which are necessary and convenient in the exercise of [its] jurisdiction.” (*See* § 701.) Thus, while the owners may be out-of-state, the Commission has final authority over any public utility effects in California.

In addition, conditions of approval require Valencia to: (1) maintain and store its books and records in California, (2) maintain offices in its service territory, and (3) retain Valencia’s high level of customer service and community involvement.

SCOPE seeks greater assurances that Valencia’s decision-making will be focused on local issues. SCOPE proposed additional conditions requiring that all Valencia board members and officers reside in Valencia’s service territory, and that Valencia’s General Manager and three other highly-compensated individuals be given renewable five-year employment contracts, with termination only for causes unrelated to financial performance. In addition, SCOPE recommends that Valencia’s officers and General Manager have exclusive control over well closure, water quality, and litigation decision-making.

While the Commission has sufficient jurisdiction to impose the type of conditions SCOPE seeks, SCOPE has not presented a sufficient rationale to support these unprecedented intrusions into utility management. The Public Utility Code and this Commission's precedents do not favor micromanaging a utility but rather focus on ensuring compliance with legal and policy objectives. SCOPE's recommendations address corporate governance issues that have no direct effect on ratepayers. To the extent Valencia makes decisions that affect ratepayers either through rates, water quality, or otherwise, the Commission has comprehensive authority to impose whatever protections it deems necessary.

We are satisfied that the conditions imposed on Valencia are sufficient to protect Valencia's ratepayers. See particularly Conditions 5 (no adverse changes in Valencia policies), 9 (no changes in existing Valencia management, and 16 (no actions that would impair Valencia's ability to fulfill its public utility function).

5. Documents and Loans

The applicants provided the Newhall proxy statement for the proposed transaction with Lennar. They stated that there is only one merger document, and that a fully executed copy was attached to the application. They also stated that there are no outstanding loans between Newhall and Valencia, and that the loan between Newhall and Valencia discussed in the recent rate case has been repaid in full. Thus, all required documents are in the record, and no loans exist.

The Sierra Club and Friends of the Santa Clara River sought conditions requiring disclosure of additional documents.³ Applicants contend that these

³ The specific documents are: (1) the merger agreement disclosure letter between Newhall and the Lennar group, (2) Newhall settlement with Kerr-McGee over

Footnote continued on next page

requests are “fishing expeditions irrelevant to the present proceeding and aimed only to advance the interest of litigants in other venues.” While we agree that these documents are not relevant to this proceeding, we strongly caution applicants that should any costs or water quality issues related to these documents arise in future Valencia rates cases or other proceedings, we may require full review of the related documents.

The Commission has broad authority to examine the books and records of all public utilities. (*See, e.g.*, § 314 (“The commission, each commissioner, and each officer and person employed by the commission may, at any time, inspect the accounts, books, papers, and documents of any public utility”).) Conditions 4 and 7 require that Valencia maintain its headquarters and books in this state. These requirements, and others, give us ample access to all necessary documents.

6. Ill-feeling and Mistrust

Sierra Club and the Friends of the Santa Clara River refer to the “ill-feeling and mistrust” between the protestants and the applicants. These feelings appear to be at the core of many of the issues raised by the protestants. Building trust and creating positive relationships are difficult objectives to attain. Commission mandates to do so are unlikely to be successful. Nevertheless, we encourage the parties to make trust building a goal. Valencia and the protestants have a long history of advocating different perspectives on issues important to Valencia and its customers. A positive, respectful relationship will be advantageous to all parties in both the long and short run.

contaminated soil, (3) Whittaker Bermite settlement agreement sealed in U.S. District Court, and (4) water supply reports detailing reduction in production due to ammonium perchlorate pollution plume.

Evaluation of Public Interest

To determine whether this proposed transaction is in public interest, we look primarily to its effect on ratepayers. Newhall, a real estate development company, currently owns Valencia. After the transaction, Lennar and LNR, both large real estate development companies, will own Newhall and, indirectly, Valencia. In short, Valencia will change from being owned by a relatively modest real estate developer to being owned by two large real estate developers. As noted above, we have previously found that Newhall has little day-to-day involvement with Valencia.

Other than speculation about the affects of out-of-state ownership,⁴ the protestants have not demonstrated any specific impact on ratepayers. Virtually all of the Conditions are designed to ensure that ratepayers are fully insulated from any effects of the transaction. Conditions 12, 13, 14, and 15 impose strong ratemaking prohibitions to Lennar and LNR costs being included in Valencia's revenue requirement. Condition 6 requires that Valencia maintain its high quality customer service and community involvement, and condition 7 prohibits closing local offices.

Based on the Conditions, and Newhall's limited role in Valencia's operations, we conclude that ratepayers will not be materially affected by this transaction. Valencia will remain a stand-alone public utility water company, with all services being provided by its own personnel and departments. In contrast to some merger acquisitions, Lennar and LNR do not plan for

⁴ Applicants point out that current owners of nearly 40% of Newhall are based out-of-state, east of the Mississippi River.

operational consolidations to achieve cost reductions, and Valencia is a modest component of Newhall's assets.⁵

Our inquiry into this transaction, however, does not end with ratepayers. We look also to whether this transaction will adversely affect employees or the state and local economies. Condition 5 prohibits any adverse changes to Valencia's employee policies, and Condition 11 requires that all collective bargaining agreements be honored. The applicants stated in their brief that they accept these conditions. These requirements are sufficient to ensure that employees will not be adversely affected by the transaction.

Turning to state and local economies, we are aware of the role that mergers and acquisitions play in enabling businesses to grow and prosper. While we have no desire to impede business development, our duty to public utility customers requires that we balance the need to protect these customers with the overall objective of enhancing economic development. We are satisfied that the conditions we impose in today's decision strike that the balance.

Therefore, we find that the proposed change of indirect control of Valencia from Newhall to Lennar and LNR, as conditioned by this decision, is in the public interest.

Need for Hearing

The assigned Commissioner and ALJ retained our initial determination that a hearing was not necessary. As there are no disputed issues of material fact to resolve in evidentiary hearings, we determine that a hearing is not needed and that, pursuant to Commission Rule of Practice and Procedure (Rules) 6.6,

⁵ Valencia's net revenues of \$2.6 million are 6.4% of Newhall's \$40.5 million 2002 net revenues.

Article 2.5 of the Rules ceases to apply to this proceeding. *Ex parte* contacts, however, will continue to be covered by Rule 7(c).

California Environmental Quality Act

It can be seen with certainty that no significant effect on the environment could result from our granting the requested authorization, the proposed transaction qualifies for an exemption from review. Thus, the requested transfer of control is a “project” that qualifies for an exemption from CEQA pursuant to § 15061(b)(3) of the CEQA guidelines.

Comments on Draft Decision

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments on the draft decision were filed on _____ and reply comments were filed on _____.

Assignment of Proceeding

Susan Kennedy is the Assigned Commissioner, and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. Under the proposed transaction, Lennar and LNR will obtain ownership and control of Newhall, the owner of Valencia.
2. After the proposed transaction is completed, Valencia will continue to be the operating public utility providing water utility service under the Commission’s jurisdiction in the areas where it is authorized to do so.
3. All parties commented on the conditions to be imposed on this transaction. The protestants supported the conditions, and urged more stringent additions. The applicants requested minor changes, and revisions to the unregulated operations rule.

4. Valencia is technically capable of owning and operating a Commission-regulated public water utility.

5. Valencia is capable of raising sufficient capital to meet the needs of its customers.

6. The Conditions set out in Attachment B are necessary to ensure that Valencia remains capable of serving its customers in compliance with California law and Commission policy.

7. Valencia's ratepayers will not be materially affected by the proposed transaction.

8. Having Valencia's representatives available locally is an important aspect of customer service.

9. With the conditions we impose, this transaction will not adversely affect Valencia's service quality, and will be fair and reasonable to Valencia's employees.

10. The Commission will have access to Valencia's and its affiliated companies' books and records as necessary in the Commission's judgment to facilitate the Commission's obligation to regulate.

11. Evidentiary hearings are not necessary.

Conclusions of Law

1. Pursuant to § 854, the Commission has broad authority to approve or deny applications for transfers of utility ownership or control. Implicit in this authority is the right to place reasonable conditions upon the transferor or transferee, should the need for conditions arise. The right to impose these conditions carries with it the right to enforce the conditions at the Commission in Commission proceedings.

2. Pursuant to § 854, the Commission must determine whether the proposed transaction is in the public interest, and the Commission may use the standards set out in § 854(b) and (c) to inform its public interest determination.

3. The Commission has complete authority over any and all Valencia service territory expansions.

4. Conditions 17 and 18 prohibit any favoritism by Valencia to its affiliated land development companies.

5. The Commission has sufficient authority over Valencia's rates and operations to ensure that the out-of-state owners of Newhall cause no untoward effects on ratepayers.

6. The Commission has broad authority to inspect Valencia's books and records, and the Conditions imposed in this decision implements that authority.

7. The Conditions balance ratepayer protections and economic development.

8. Valencia is not entitled to recover either the acquisition premium or any transaction-related costs in current or future rates.

9. The requested acquisition and transfer of control is a "project" that qualifies for an exemption from CEQA pursuant to § 15061(b)(3) of the CEQA guidelines.

10. As conditioned by this decision, the transaction is in the public interest.

11. The transaction should be approved subject to the conditions set out in Attachment B to this decision.

12. In order to provide certainty to the parties in their business dealings, this decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The application of Valencia Water Company (Valencia), Newhall Land and Farming Company (Newhall), Lennar Corporation (Lennar), LNR Property

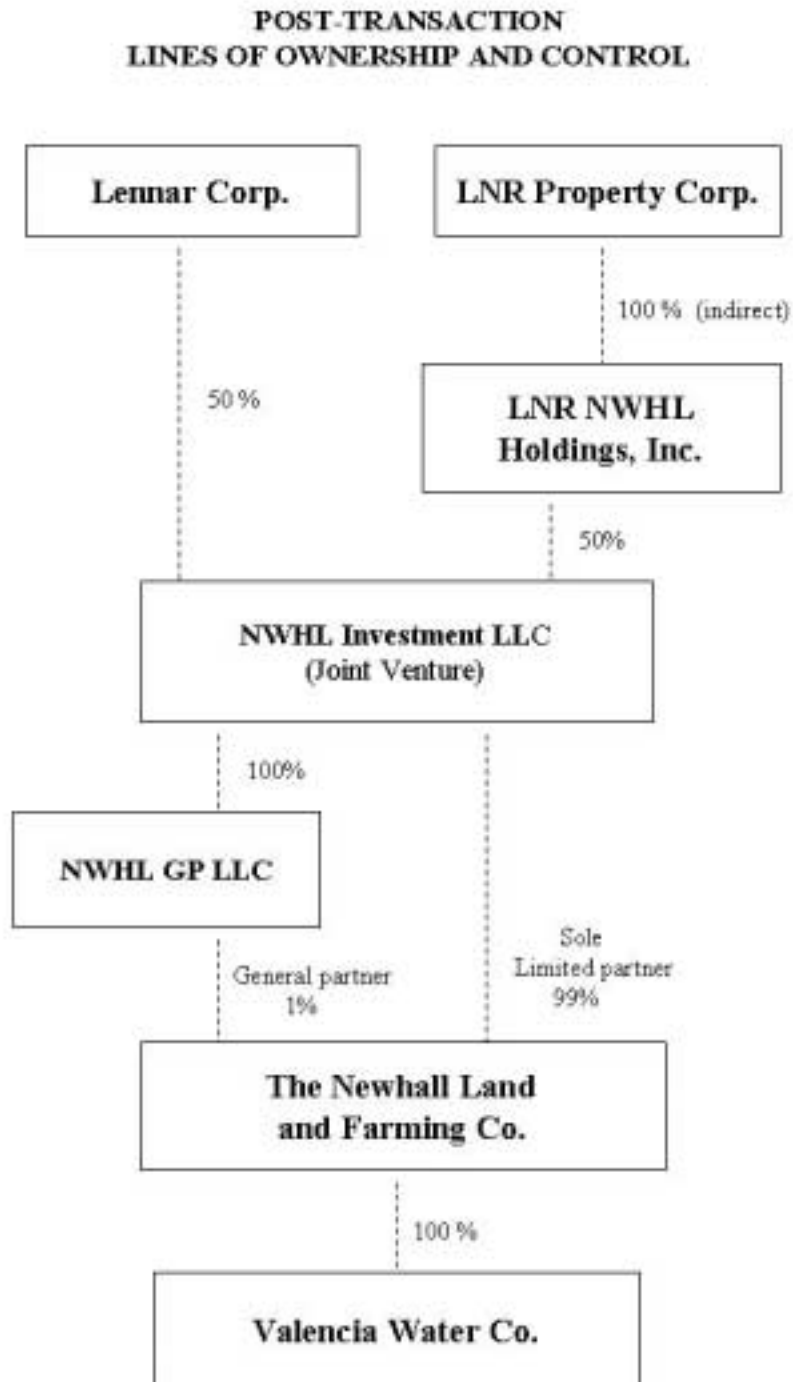
Corporation (LNR), LNR NWHL Holdings, Inc., NWHL Investment LLC, NWHL GP LLC, NWHL Acquisition, L.P., is granted subject to the conditions set forth in Attachment B to this decision.

2. Application 04-08-025 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

ATTACHMENT A**(END OF ATTACHMENT A)**

ATTACHMENT B
Conditions

1. The transaction shall have no effect on the Commission's authority over Valencia's provision of public utility service to the public.
2. Valencia will comply with all applicable California and federal laws and administrative regulations.
3. Lennar, LNR, and Newhall shall ensure that Valencia has adequate capital to fulfill all of its public utility service obligations.¹
4. Valencia shall continue to maintain its books and records in accordance with all Commission rules. Valencia's books and records will be maintained and housed in California.
5. The transaction will not result in any adverse changes in Valencia policies with respect to service to customers, employees, operations, financing, accounting, capitalization, rates, depreciation, maintenance, or other matters that adversely affect the public interest or utility operations.
6. There shall be no adverse impact on customer service as a result of the transaction. Lennar and LNR shall maintain Valencia's commitment to high quality public utility water service and community involvement.

¹ We find the definition of the term "capital" in this provision is the same definition of "capital" used by the Commission in D.02-01-039, *Investigation into Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas and Electric Company and their respective holding companies*, Findings of Fact 5 and 6, 2002 Cal. PUC LEXIS 5 *57. This means that the term "capital" encompasses "money and property with which a company carries on its corporate business; a company's assets, regardless of source, utilized for the conduct of the corporate business and for the purpose of deriving gains and profits; and a company's working capital," and is not limited to mean only "equity capital, infrastructure investment, or any other term that does not include, simply, money or working cash." (*Id.*)

7. Valencia shall maintain its business headquarters in California together with fully operational field offices as appropriate to maintain the high quality of customer service and community involvement. Valencia shall not close any of its local offices as a result of this transaction.

8. Valencia shall maintain or improve its practices and policies for addressing the ammonium perchlorate pollution plume in Valencia's groundwater source.

9. The transaction shall not result in changes to the existing management and officers of Valencia.

10. Operational control of Valencia shall continue to be exercised by Valencia's board of directors and management.

11. There shall be no changes in any existing union agreement as a result of the transaction. All collective bargaining agreements will be honored.

12. There shall not be an additional layer of management overhead allocated to Valencia as a result of the transaction. Lennar, LNR, and Newhall costs shall not be included in Valencia's revenue requirement absent a compelling demonstration of benefit to Valencia and its customers.

13. None of the outstanding debt, owed and recorded as liabilities on the regulated books of Valencia, will be adversely affected by the proposed transaction. There shall be no changes in the income statement, balance sheet or financial position of Valencia used for ratemaking purposes as a result of the transaction.

14. The ratepayers of Valencia shall not incur, directly or indirectly, any transaction costs or other liabilities or obligations arising from Lennar's and LNR's acquisition of Newhall. Lennar, Newhall, and LNR shall bear all costs of the transaction with no attempt to seek recovery from Valencia ratepayers at any time. Valencia shall not incur any additional indebtedness, issue any additional

securities, or pledge any assets to finance any part of the purchase price paid by Lennar and LNR for Newhall stock.

15. The premium Lennar and LNR pay for Newhall stock, as well as all transaction-related costs, including external advisors, early termination costs, change in control payments, or retention bonuses paid to Valencia employees as a result of the proposed transaction, shall not be “pushed down” to Valencia or otherwise reflected in Valencia’s accounting records used for ratemaking purposes, and there shall be no attempt to recover such costs in any future rate proceeding.

16. Lennar, LNR, and their respective affiliates shall take no actions that would impair Valencia’s ability to fulfill its public utility obligation to serve or to operate in a prudent and efficient manner.

17. Valencia shall not grant Lennar or LNR affiliate real estate developments preferences when evaluating whether Valencia can or will extend water service to the development.

18. Valencia shall comply with the Affiliated Interest Transaction Rules set out in the attachment to these conditions.

AFFILIATED INTEREST TRANSACTION RULES

These Affiliated Interest Transaction Rules set forth the practices to be observed by Valencia Water Company (Valencia).

Definitions:

Affiliated company or companies: all entities that are under direct or indirect common ownership or control with Valencia, including any holding companies.

Cost: all fully allocated capital and expense amounts including all management, administration, overhead, and indirect allocations.

Property: any right or thing to which an entity has legal or equitable title.

Real Property: any interest in real estate including leases, easements, and water rights.

1. *Access to Officers and Employees.* The officers and employees of Valencia and its affiliated companies shall be available to appear and testify in any proceeding before the Commission involving Valencia. If in the proper exercise of Commission staff's duties, Valencia cannot supply appropriate personnel to address staff's reasonable concerns, then the appropriate staff of the relevant Valencia affiliated companies shall be made available to staff.
2. *Access To Books and Records.* Valencia and its affiliated companies will provide the Commission, its staff, and its agents with access to the relevant books and records of such entities in connection with the exercise by the Commission of its regulatory responsibilities.
3. *Annual Report.* Valencia shall file with the Commission each year, and include in all general rate case filings, a report that includes a summary of all transactions between Valencia and its affiliated companies for the previous calendar year. Valencia shall maintain such information on a monthly basis and make such information available to the Commission's staff upon request. To the extent not covered by an existing affiliated transaction agreement, the summary shall include a complete description of each transaction and an accounting of all costs associated with each transaction although each transaction need not be separately identified where multiple transactions occur in the same account. These transactions shall include (a) services provided by Valencia to any affiliated company; (b) services provided by any affiliated company to Valencia; (c) assets transferred from Valencia to any affiliated company; (d) assets transferred from any affiliated company, to Valencia; (e) employees transferred from Valencia to any affiliated company; (f) employees transferred from any affiliated company to Valencia; and (g) financing arrangements and transactions between Valencia and any affiliated company.
4. *Issuance of Debt for Affiliated Companies.* Debt of Valencia's affiliated companies shall not be issued or guaranteed by Valencia without prior approval by the Commission.
5. *Accounting.* Valencia shall maintain its accounting records in accordance with Generally Accepted Accounting Principles and, where appropriate, the Commission's Uniform System of Accounts.

6. *Allocation of Common Costs.* Valencia and each of its affiliated companies shall allocate costs between them in such a manner that ratepayers of Valencia will not subsidize any affiliate of Valencia. Valencia shall include and explain its methodology in its general rate case filings.
7. *Unregulated Operations and Transfer of Employees.*
 - a. Valencia shall not use its employees or officers to provide unregulated services if such use would adversely affect Valencia or its ratepayers.
 - b. To the extent Valencia chooses to use its employees or officers to provide unregulated services, Valencia shall carefully account for all such employee and officer time. In each general rate case application, Valencia shall submit a report showing all such employee and officer time on an annual basis for each year since the last general rate case.
 - c. Valencia shall not use its property to sell unregulated goods if such use would adversely affect Valencia or its ratepayers.
 - d. To the extent Valencia chooses to use its property to sell unregulated goods, Valencia shall carefully account for all such property use and tabulate the fully allocated cost. In each general rate case application, Valencia shall submit a report showing all such use on an annual basis for each year since the last general rate case.
8. *Transfer Of Property Other Than Real Property From Valencia.* All transfers of property other than real property or payment of dividends from Valencia to any affiliated company shall be in writing and priced at the higher of cost or fair market value. Valencia shall record any revenue resulting from the transfer of any such property in a memorandum account for further disposition by the Commission.
9. Valencia shall develop a verifiable and independent appraisal of fair market value for any property that is transferred to any affiliate under Paragraph 8 above. The Commission's staff will have access to all supporting documents used in the development of the fair market value.
10. *Transfers Of Property Other than Real Property to Valencia.* All transfers of any property other than real property to Valencia from any affiliated company shall be in writing and priced at the lower of cost or fair market value. Valencia shall obtain and retain sufficient cost data from the affiliate to support the price charged. Valencia shall obtain explicit Commission authorization prior to including the costs or expenses of any such property in its revenue requirement or rate base.
11. *Pricing Of Services From Valencia To Affiliated Companies.* All services provided by Valencia to an affiliated company shall either be pursuant to a Commission-approved tariff or be in writing and priced to recover all costs associated with such service that have been included in Valencia's revenue requirement for its last general rate case.

12. *Pricing Of Services From Affiliated Companies To Valencia.* Except for common costs allocated in the manner described in Paragraph 6, all services provided by an affiliate to Valencia shall be pursuant to a written services agreement. All services provided by the affiliate shall be priced at the lower of the affiliate's incremental cost to provide the service or the fair market value of the service. Copies of all such service agreements shall be included in all general rate case filings and shall also include a full accounting of all services forecasted for the test year including the affiliated company's cost analysis and supporting documentation.
13. *Transfers of Real Property from Valencia to an Affiliate.* Valencia shall not transfer to an affiliate any real property necessary or useful in its provision of public utility service to the public. Valencia shall obtain Commission authorization prior to transferring to an affiliate any real property that was at any time included in Valencia's rate base.
14. *Transfers of Real Property from an Affiliate to Valencia.* Valencia shall not include in its rate base or revenue requirement the costs or expenses associated with any real property obtained from an affiliate, except for fees and costs paid to third parties incidental to obtaining and recording title to real property, absent a Commission decision specifically approving the acquisition and adopting specific ratemaking treatment.
15. *Confidentiality.* Any records or other information of a confidential nature furnished to the Commission pursuant to these Rules that are individually marked confidential are not to be treated as public records and shall be treated in accordance with Public Utilities Code section 583 and the Commission's General Order 66-C.
16. *Physical Separation of Valencia from Affiliated Companies.* To the greatest extent feasible, Valencia shall maintain its offices, facilities, and employees in locations physically separate from affiliated companies. Where such separation is not feasible, Valencia shall create and implement stringent management and accounting policies to ensure that Valencia's public utility functions are not affected by the proximity of the affiliates, and that all affiliate costs are paid by the affiliate.